

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

ERIC SAXTON,)
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Plaintiff,)
)
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vs.) Case No. 4:15cv0847 TCM
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MAC,)
)
Defendant,)
)

MEMORANDUM AND ORDER

Plaintiff seeks leave to proceed in forma pauperis in this civil action under Title VII of the Civil Rights Act of 1964 (Title VII), 42 U.S.C. §§ 2000e through 2000e-17. His motion will be granted.

Under 28 U.S.C. § 1915(e), the Court is required to dismiss a complaint filed in forma pauperis if it is frivolous, malicious, or fails to state a claim upon which relief can be granted. A plaintiff in a Title VII action has ninety days from receipt of the right-to-sue letter to file a civil action. 42 U.S.C. § 2000e-5(f). Failure to file a timely civil action warrants dismissal of the complaint. See e.g. Maegdlin v. Int'l Ass'n of Machinists and Aerospace Workers, 309 F.3d 1051, 1054 (8th Cir. 2002).

Plaintiff attaches an EEOC right-to-sue letter to his complaint alleging that Defendant discriminated against him on the basis of his race. The right-to-sue letter was mailed to Plaintiff on February 10, 2015. The ninety-day period in this case elapsed on approximately May 11, 2015; however, Plaintiff did not file the instant action until May 28, 2015. His complaint appears to be time-barred.

Consequently, Plaintiff is directed to show cause, in writing, why his action should not be dismissed as untimely. Failure to respond to this Order or a failure to show adequate cause will result in the dismissal of this case.

Finally, the Court notes that the Missouri Commission of Human Rights (MCHR) mailed its right-to-sue letter on March 4, 2015. Under Missouri law, a plaintiff has ninety days from the receipt of the state right-to-sue letter to file a complaint. See Mo.Rev.Stat. § 213.111(1). However, regardless of whether this action was timely pursued after receipt of the MCHR right-to-sue letter, the action must be dismissed if Plaintiff's federal cause of action is untimely.

Accordingly,

IT IS HEREBY ORDERED that Plaintiff's motion for leave to proceed in forma pauperis is **GRANTED**. [Doc. 2]

IT IS FURTHER ORDERED that Plaintiff shall show cause, in writing and no later than **twenty-one (21) days from the date of this Order**, why this case should not be dismissed as time-barred.

/s/ Thomas C. Mumford, III
THOMAS C. MUMFORD, III
UNITED STATES MAGISTRATE JUDGE

Dated this 29th day of May, 2015.